

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

IN THE MATTER OF	CASE NO. 12-00313
DAVID VARGAS GUIDO	
Debtor	Chapter 13

**OBJECTION TO CLAIM BY CRIM (POC#9) ON GROUNDS OF VIOLATION OF DISCHARGE
IN CASE# 02-08468**

TO THE HONORABLE COURT:

Debtor, by counsel, objects to Proof of Claim Number 9, filed by CRIM in the amount of **\$12,011.34(PRIORITY) PLUS \$1477.20(UNSECURED)** and **alleges** the following reasons for same:

I.

1. Creditor CRIM has filed in this case a Proof of Claim #9 in the amount of **\$12,011.34(PRIORITY) PLUS \$1477.20(UNSECURED)**.

2. Debtors objects to proof of claim by CRIM #9 , on the following grounds:

- a. On august 14,2002, debtor had filed a chapter 13 petition.
- b. The number of his previous chapter 13 petition was **02-08468**.
- c. The 341 meeting was scheduled for September 24,2002 at Hotel Melia, calle Cristina #75, Ponce,PR.
- d. On 02/05/2003, after a series of required amendments, the case No. 02-08468 was confirmed. Copies submitted.1 EXHIBIT 1. ORDER CONFIRMING PLAN.

1 11 U.S.C. 1327 describes the effect of the confirmation of the Plan:

e. As per debtor's petition creditor CRIM was listed as unsecured priority. See attached schedule E. EXHIBIT 2.

f. Debtor also included CRIM in the Creditor's list matrix. Copies submitted. EXHIBIT 3.

g. Debtor also submits Trustee's notice of the 341 meeting which included debtor's social security number and Trustee's record of CRIM as to claims. EXHIBIT 4.

h. Creditor CRIM, received notices from debtor, but also from the Court and Trustee.

i. At no time CRIM made any attempt to communicate with debtor's attorney nor appeared at the 341 meeting.

j. On 07/31/2007, debtor received the discharge on his previous chapter 13 petition, case no. 02-08468, as to all the debts included in his chapter 13 petition. EXHIBIT 6.

k. The filing of the POC #9 by CRIM in the case at bar, constitutes a violation as to the discharge entered on case 02-08468.

(a) The provisions of a confirmed plan bind the debtor and each creditor, whether or not the claim of such creditor is provided for by the plan, and whether or not such creditor has objected to, has accepted, or has rejected the plan.

(b) Except as otherwise provided in the plan or the order confirming the plan, the confirmation of a plan vests all of the property of the estate in the debtor.

(c) Except as otherwise provided in the plan or in the order confirming the plan, the property vesting in the debtor under subsection (b) of this section is free and clear of any claim or interest of any creditor provided for by the plan.

2. For purpose of protecting debtor's privacy, only last four(4) digits of his social security number

l. The POC file by CRIM is not enforceable against the debtor, due to the discharge received in the previous Chapter 13 case. 11 U.S.C. 524(a)(2).on which as per evidence proffered, they were included as creditors.

m. The claim is not enforceable to any extent against the property of the debtor.

n. For these reasons, CRIM's POC #9 has to be disallowed in its entirety.

3. Debtor object to the allowance of this CRIM's #9 claim under 11 USCA 502.

II. Notice of Order Requiring Written Response

Within thirty (30) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the objection will be deemed unopposed and may be granted unless: (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the court, the interest of justice requires otherwise. If you file a timely response, the court may – in its discretion – schedule a hearing.

WHEREFORE, the debtors request that, after notice and a hearing, the Court disallows CRIM's claim No. 9 as filed, and for such other and further relief as may be just and proper.

In Mayaguez, Puerto Rico, July 22, 2012.

MIRIAM S. LOZADA RAMÍREZ, ESQ.
296 RAMON BETANCES SUR SUITE 5
Mayagüez, Puerto Rico 00680
TEL787-834-3004
FAX(787)986-7346
miriamlozada@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that on this same date I electronically filed the above document with the Clerk of the Court using ECF systems which sent a notification of such filing to all those who have registered for receipt of notice by electronic mail. I further certify that I have served to the US Trustee, ustpreion21.hr.ecf@usdoj.gov and to standing chapter 13 trustee Jose Carrion, ecfmail@ch13-pr.com, and by depositing true and exact copies thereof in the United States mail; postage prepaid to the non CM/ECF participants. As per master address list to all parties in interest to their address of record. **CRIM was also served copies of objection via fax(787)625-4073.**

In Mayaguez, Puerto Rico, JULY 22,2012.

/S/MIRIAM S. LOZADA RAMIREZ, ESQ.

EXHIBIT 1

IN THE MATTER OF:

VARGAS GUIDO, DAVID

583-47-7095

Debtor(s)

CASE NO. 02-08468 SEK

Chapter 13

FILED & ENTERED ON 2/5/2003

ORDER CONFIRMING PLAN

The debtor's Chapter 13 plan was duly served on all parties. A hearing on confirmation of the plan was held after due notice to all parties in interest. Objections, if any, have been resolved. The Court hereby finds that each of the requirements for confirmation of a Chapter 13 plan pursuant to 11 U.S.C. 1325 (a) are met.

1. The debtor, or his employer, shall make the payments to the trustee required by the plan as confirmed or as hereafter modified. If the debtor does not cause such payments be timely made, the trustee may request the Court for an order directing the debtor's employer to make the appropriate payroll deductions and payments to the trustee or to pay the debtor's entire earnings and wages to the trustee [11 U.S.C. 1325 (c)]. Such an order may be issued without further notice.

2. The debtor shall obtain the approval of the trustee prior to incurring additional debt. The failure to obtain such approval may cause the claim for such debt to be disallowed pursuant 11 U.S.C. 1305 (c) and the debt to be non dischargeable [11 U.S.C. 1328 (d)].

3. If the debtor's plan is confirmed prior to the last day to file claims, or to object to the debtor's claim of exemptions, a modification of the confirmed plan pursuant to 11 U.S.C. 1329 may be required after these dates have past.

Therefore, IT IS HEREBY ORDERED that the debtor's Chapter 13 plan dated 1/28/2003 (attached to d.e. #29) is CONFIRMED.

ALLOWANCE OF DEBTOR ATTORNEY'S FEES

The application for the allowance of reasonable compensation as authorized by 11 U.S.C. 330, having been considered, the court finds that a reasonable fee for the services performed and undertaken by such attorney is **\$1,400.00**. Such fee, less any retainer, shall be paid by the trustee from the monies received under the debtor's plan, provided, however that such payments be deferred in time to payments which may be required to provide adequate protection of the interest of the holders of secured claims.

San Juan, Puerto Rico, this February 5, 2003.


Sara E. De Jesus
U.S. Bankruptcy Judge

CC: DEBTOR,
MIRIAM S LOZADA RAMIREZ,
JOSE RAMON CARRION MORALES,
FINANCE

Exhibit 1

EXHIBIT 2

In re DAVID VARGAS GUIDO

/ Debtor

Case No. _____
(if known)

SCHEDULE E-CREDITORS HOLDING UNSECURED PRIORITY CLAIMS

A complete list of claims entitled to priority, listed separately by type of priority, is to be set forth on the sheets provided. Only holders of unsecured claims entitled to priority should be listed in this schedule. In the boxes provided on the attached sheets, state the name and mailing address, including zip code, and account number, if any, of all entities holding priority claims against the debtor or the property of the debtor, as of the date of the filing of the petition.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor," include the entity on the appropriate schedule of creditors and complete Schedule H - Codebtors. If a joint petition is filed, state whether husband, wife, both of them or the marital community may be liable on each claim by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community."

If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Report the total of claims listed on each sheet in the box labeled "Subtotal" on each sheet. Report the total of all claims listed on this Schedule E in the box labeled "Total" on the last sheet of the completed schedule. Repeat this total also on the Summary of Schedules.

☐ Check this box if debtor has no creditors holding unsecured priority claims to report on this Schedule E.

TYPES OF PRIORITY CLAIMS

Check the appropriate box(es) below if claims in that category are listed on the attached sheets.

☐ **Extensions of credit in an involuntary case**

Claims arising in the ordinary course of the debtor's business or financial affairs after the commencement of the case but before the earlier of the appointment of a trustee or the order for relief. 11 U.S.C. § 507(a)(2).

☐ **Wages, salaries, and commissions**

Wages, salaries, and commissions, including vacation, severance, and sick leave pay owing to employees and commissions owing to qualifying independent sales representatives up to \$4300* per person earned within 90 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507(a)(3).

☐ **Contributions to employee benefit plans**

Money owed to employee benefit plans for services rendered within 180 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507(a)(4).

☐ **Certain farmers and fishermen**

Claims of certain farmers and fishermen, up to \$4300* per farmer or fisherman, against the debtor, as provided in 11 U.S.C. § 507(a)(5).

☐ **Deposits by individuals**

Claims of individuals up to \$1950* for deposits for the purchase, lease, or rental of property or services for personal, family, or household use, that were not delivered or provided. 11 U.S.C. § 507(a)(6).

☐ **Alimony, Maintenance or Support**

Claims of a spouse, former spouse, or child of the debtor, for alimony, maintenance or support, to the extent provided in 11 U.S.C. § 507(a)(7).

☒ **Taxes and Certain Other Debts Owed to Governmental Units**

Taxes, custom duties, and penalties owing to federal, state, and local governmental units as set forth in 11 U.S.C. § 507(a)(8).

☐ **Commitments to Maintain the Capital of an Insured Depository Institution**

Claims based on commitments to FDIC, RTC, Director of the Office of Thrift Supervision, Comptroller of the Currency, or Board of Governors of the Federal Reserve System, or their predecessors or successors, to maintain the capital of an insured depository institution. 11 U.S.C. § 507(a)(9).

*Amounts are subject to adjustment on April 1, 2001, and every three years thereafter with respect to cases commenced on or after the date of adjustment.

1 continuation sheets attached

Exhibit 2

In re DAVID VARGAS GUIDO

/ Debtor

Case No. _____

(if known)

SCHEDULE E-CREDITORS HOLDING UNSECURED PRIORITY CLAIMS

(Continuation Sheet)

TYPE OF PRIORITY *Taxes and Certain Other Debts Owed to Governmental Units*

Creditor's Name and Mailing Address including Zip Code	C o d e b t o r	Date Claim was Incurred, and consideration for Claim	C o n t i n g e n t	D i s p u t e d	Total Amount of Claim	Amount Entitled to Priority
Account No: <u>33200718536001</u> Creditor # : <u>1</u> <u>CRIM</u> <u>APARTADO 1308</u> <u>CABO R8JO 00623</u>	H	Municipal/city taxes			\$ 2,393.00	\$ 1,000.00
Account No:						
Account No:						
Account No:						
Account No:						
Account No:						
Account No:						
Account No:						

Sheet No. 1 of 1 continuation sheets attached to

Schedule of Creditors

Subtotal \$

2,393.00

(Total of this page)

Total \$

2,393.00

(Use only on last page of the completed Schedule E. Report total also on Summary of Schedules)

EXHIBIT 3

BANCO POPULAR
PO BOX 366818
SAN JUAN, PR 00936-6818

BANCO POPULAR
PO BOX 70100
SAN JUAN, PR 00936-8100

BANCO POPULAR DE PR
PO BOX 70354
SAN JUAN, PR 00936-8354

CITIBANK NA
PO BOX 8005
SOUTH HACKENSAC, NJ 07606

COMMOLOCO
263 CALLE COLON
MAYAGUEZ, PR 00681

(p)SPRINGLEAF FINANCIAL SERVICES
P O BOX 3251
EVANSVILLE IN 47731-3251

CRIM-CABO ROJO
APARTADO 1308
CABO ROJO, PR 00623-1308

SEARS CARD
PAYMENT CENTER PR
PO BOX 105491
ATLANTA, GA 30348-5491

SEARS ROEBUCK DE PR
PO BOX 71204
SAN JUAN, PR 00936-7604

US ATTORNEY OFFICE DISTRICT OF PR
350 CHARDON TORRE CHARDON STE-1201
SAN JUAN, PR 00918

USDA RHS
PO BOX 790170
SAINT LOUIS, MO 63179-0170

USDA RURAL HOUSING SERVICE
CENTRALIZED SERVICING CENTER
P.O. BOX 66879
ST. LOUIS, MO 63166-6879

WESTERNBANK
PO BOX 1180
MAYAGUEZ, PR 00681-1180

DAVID VARGAS GUIDO
1-3 CALLE 1 URB ANA MARIA
CABO ROJO, PR 00623-4856

JOSE RAMON CARRION MORALES
PO BOX 9023884
SAN JUAN, PR 00902-3884

MIRIAM SOCORRO LOZADA RAMIREZ
MIRIAM LOZADA RAMIREZ,ESQ.
296 RAMON EMETERIO BETANCES SUR
SUITE 5
MAYAGUEZ, PR 00680

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified
by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

COMMOLOCO INC
PO BOX 363769
SAN JUAN, PR 00936-3769

End of Label Matrix
Mailable recipients 18
Bypassed recipients 0
Total 18

Exhibit 3

EXHIBIT 4(A)

United States Bankruptcy Court DISTRICT OF PUERTO RICO

Notice of Chapter 13 Bankruptcy Case, Meeting of Creditors, & Deadlines

An order for relief under Chapter 13 of Title 11 U.S.C. was entered on August 14, 2002 upon filing of a petition by the above debtor(s). The debtor(s) shall appear for examination and to present a plan for the adjustments of debts. Failure of the debtor(s), his attorney to appear at the 341(a) meeting or to timely file statement and plan may result in dismissal.

You may be a creditor of the debtor. THIS NOTICE LISTS IMPORTANT DEADLINES. You may want to consult an attorney to protect your rights. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below. NOTE: The staff of the bankruptcy clerk's office cannot give legal advice.

SEE PAGE 2 FOR IMPORTANT EXPLANATIONS.

Addressee:	Case Number: 02-08468 Social Security/Taxpayer ID Nos.: SSN: 52-47 7093 EIN:
Debtor: VARGAS GUIDO, DAVID BOX 863 BOQUERON, PR 00622	Joint Debtor:
Attorney for Debtor: MIRIAM S LOZADA RAMIREZ CALLE RIERA PALMER 62 MAYAGUEZ, PR 00680-3925 Telephone Number: (787) 834-3004	Attorney for Joint Debtor: Telephone Number:
Judge: SARA DE JESUS	Bankruptcy Trustee: JOSE RAMON CARRION MORALES PO BOX 9023884 SAN JUAN, PR 00902-3884 Telephone number: (787) 977-3535

MEETING OF CREDITORS
 September 24, 2002, 01:00 P.M., HOTEL MELIA, CALLE CRISTINA #75, PONCE PR 00731

DEADLINES:

Papers must be received by the bankruptcy clerk's office by the following deadlines:

DEADLINE TO FILE A PROOF OF CLAIM:

For all creditors (except a governmental unit): December 23, 2002

For a governmental unit: February 10, 2003

Deadline to Object To Exemptions:

Thirty (30) days after the conclusion of the meeting of creditors.

CONFIRMATION HEARING

If no objection are filed or anticipated, the hearing on confirmation will be held on a date to be notified at the 341 meeting. If objections are filed or anticipated, the Chapter 13 trustee will give written notice of the confirmation hearing date to all creditors and parties in interest

CREDITORS MAY NOT TAKE CERTAIN ACTIONS

The filing of the bankruptcy case automatically stays certain collection and other actions against the debtor, the debtor's property, and certain codebtors. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized.

Address of the Bankruptcy Clerk's Office: US Post Office and Courthouse 1st Fl Ste 109 300 Recinto Sur Old San Juan, PR 00901 Telephone number: (787) 977-6000	For the Court: Clerk of the Bankruptcy Court: Celestino Matta-Mendez
Hours Opens:	Date: August 19, 2002

Exh. B. 14(k)

EXHIBIT 4(B)

17/06/12

Claim 2

Claim 2 **CRIM**
APARTADO 1308
CABO ROJO PR 00623
(000) 000-0000

CLAIM DETAIL

Case Number	0208468
Creditor	CRIM
Trustee's Claim Number	2
Court's Claim Number	0
Claim Type	N - NOTICE ONLY (S)
Claim Filed Date	
Mortgage Due Date	

CLAIM AMOUNTS

Claimed Amount	\$0.00
Scheduled Amount	\$1,000.00
Amount Paid Outside	\$0.00
Monthly Payment	\$0.00
Principal Owed	\$0.00
Principal Paid	\$0.00
Principal Due	\$0.00
Interest Rate	0.00
Interest Paid	\$0.00
Interest Due	\$0.00
Collateral Value	\$0.00
Collateral Description	
Limit	\$0.00
Plan Code	\$0.00
Percent Allowed	100.00
Months to Calculate	0.00

CLAIM FLAGS

Payee Level	0
Comment	
Account Number	xxxxxxxxxxxxxxxxxx6001
No Cost	
No Check	
Delete	
Reserve	
Stop Disbursement	
Continuing	
Special	

CREDITOR INFORMATION

Creditor Name	CRIM
Address 1	APARTADO 1308
Address 2	
Address 3	CABO ROJO PR
Zip Code	00623-0000
Contact Name	
Phone Number	(000) 000-0000
Creditor Number	365903
ShortCut	

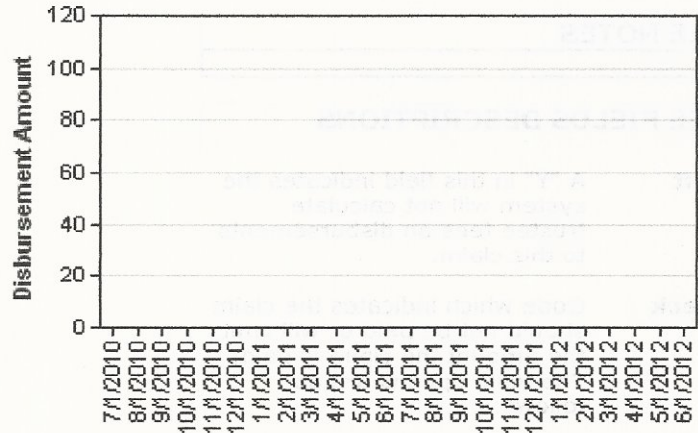
Additional Names and Addresses	Date of Last Change
Payee: <u>CRIM • APARTADO</u> <u>1308 • CABO ROJO •</u> <u>PR • 00623</u>	7/1/2005
<u>CRIM • APARTADO</u>	

(Use CTRL-P to Print this Page)

[Close Window](#)

Next Disbursement Info

Disbursements to this Claim



PAYMENT HISTORY FOR CLAIM 2 - CRIM

(Latest Payments First) Insurance- Prev. Cred-

Disb Date	Check Number	Payee Name	Type	Amount
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Exhibit 4(6)

EXHIBIT 5

IN THE UNITED STATES BANKRUPTCY COURT FOR
THE DISTRICT OF PUERTO RICO

IN RE:

DAVID VARGAS GUIDO

XXX-XX-7095

Debtor(s)

CASE NO. 02-08468 BKT

Chapter 13

FILED & ENTERED ON 07/31/2007

DISCHARGE OF DEBTOR AFTER COMPLETION OF CHAPTER 13 PLAN

It appearing that the debtor is entitled to a discharge.
IT IS ORDERED:

The debtor is granted a discharge under section 1328(a) of title 11,
United States Code, (the Bankruptcy Code).

San Juan, Puerto Rico, this 31 day of July, 2007.


Brian K. Tester
U. S. Bankruptcy Judge

cc: All creditors

SEE THE BACK THIS ORDER FOR IMPORTANT INFORMATION.

Exh-6175

EXPLANATION OF BANKRUPTCY DISCHARGE IN A CHAPTER 13 CASE

This court order grants a discharge to the person named as the debtor after the debtor has completed all payments under the chapter 13 plan. It is not a dismissal of the case.

Collection of Discharged Debts Prohibited

The discharge prohibits any attempt to collect from the debtor a debt that has been discharged. For example, a creditor is not permitted to contact a debtor by mail, phone, or otherwise, to file or continue a lawsuit, to attach wages or other property, or to take any other action to collect a discharged debt from the debtor. *[In a case involving community property:]* [There are also special rules that protect certain *community property* owned by the debtor's spouse, even if that spouse did not file a bankruptcy case.] A creditor who violates this order can be required to pay any damages and attorney's fees to the debtor.

However, a creditor may have the right to enforce a valid lien, such as a mortgage or security interest, against the debtor's property after the bankruptcy, if that lien was not avoided or eliminated in the bankruptcy case. Also, a debtor may voluntarily pay any debt that has been discharged.

Debts That are Discharged

The chapter 13 discharge order eliminates a debtor's legal obligation to pay a debt that is discharged. Most, but not all, types of debts are discharged if the debt is provided for by the chapter 13 plan or is disallowed by the court pursuant to section 502 of the Bankruptcy Code.

Debts that are Not Discharged.

Some of the common types of debts which are not discharged in a chapter 13 bankruptcy case are:

- a. Debts that are in the nature of alimony, maintenance, or support;
- a. Debts for most student loans;
- b. Debts for most fines, penalties, forfeitures, or criminal restitution obligations;
- c. Debts for personal injuries or death caused by the debtor's operation of a motor vehicle while intoxicated;
- d. Debts provided for under section 1322(b) (5) of the Bankruptcy Code and on which the last payment is due after the date on which the final payment under the plan was due; and
- e. Debts for certain consumer purchases made after the bankruptcy case was filed if prior approval by the trustee of the debtor's incurring the debt was practicable but was not obtained.

This information is only a general summary of the bankruptcy discharge. There are exceptions to these general rules. Because the law is complicated, you may want to consult an attorney to determine the exact effect of the discharge in this case.